

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2019-326-E - ORDER NO. 2022-220

APRIL 11, 2022

IN RE: South Carolina Energy Freedom Act (House)	ORDER GRANTING
Bill 3659) Proceeding to Address S.C. Code)	PETITION TO
Ann. Section 58-27-460(A)(1) and S.C. Code)	INTERVENE OUT OF
Ann. Section 58-27-460(A)(2) (Promulgation)	TIME
and Periodic Review of Standards for)	
Interconnection and Parallel Operation of)	
Generating Facilities to an Electrical Utility's)	
Distribution and Transmission System))	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“the Commission”) for consideration of the Petition to Intervene Out of Time of BrightNight, LLC (“BrightNight”) in this Docket, pursuant to S.C. Code Ann. Section 58-41-20(A) and S.C. Code Ann. Regs. 103-825. There are no objections to the intervention. In support of its Petition, BrightNight states several points.

II. ANALYSIS AND DISCUSSION

BrightNight asserts that it has a substantial and specific economic interest in the development and operation of renewable energy in South Carolina and, thus, in the Commission’s actions thereon. BrightNight notes that it is a developer of renewable energy projects throughout the United States and recently entered the market in South Carolina.

BrightNight states that these South Carolina projects would be impacted by the decisions the Commission makes in this matter.

In particular, BrightNight asserts that the Commission's resolution of the subject matter of this Docket will affect opportunities to develop renewables and clean energy alternatives in South Carolina—which BrightNight believes squarely impacts the demand and economics for the exact type of clean energy projects in which BrightNight specializes. Thus, BrightNight states that its commercial projects and plans would be directly and substantially affected by the outcome of this proceeding. For those reasons, among others, BrightNight believes that its interests in this proceeding cannot be adequately represented or protected by any other party.

BrightNight recognizes that the Commission has already established a procedural schedule for this proceeding and that the time for intervention has passed. Despite this, BrightNight believes that good cause exists to allow it to intervene at this stage, and that its participation would not inconvenience or prejudice the parties. As background, until recently, BrightNight has not participated in Dockets at this Commission, and has only recently entered the market in South Carolina. BrightNight asserts that its intervention out of time will not prejudice any party, and that it will accept the record of the proceeding as the record was developed prior to the late intervention. Further, BrightNight also believes that its intervention will not disrupt the proceeding, nor prejudice or impose additional burdens on any other parties in this docket. Accordingly, BrightNight asserts that good cause has been shown for granting the late intervention request. Further, BrightNight has

consulted with counsel for the Duke companies, who has indicated no objection to the late intervention request.

In addition to the requirement of good cause being shown prior to the approval of a late intervention, the Commission is bound by S.C. Code Ann. Regs. 103-825(A)(3), which requires that the petitioning party set forth clearly and concisely three criteria:

(a) The facts from which the nature of the petitioner's alleged right or interest can be determined;

(b) The grounds of the proposed intervention; and

(c) The position of the petitioner in the proceeding.

As stated in the paragraphs above, BrightNight has addressed facts from which the nature of its alleged right or interest can be determined and the grounds of the petition. Although BrightNight has taken no specific position in the proceeding, this criterion can be waived for good cause under S.C. Code Ann. Regs. 103-803, since there has been no showing that the waiver is contrary to the public interest. Accordingly, the Commission states the following Findings of Fact and Conclusions of Law.

III. FINDINGS OF FACT

1. BrightNight asserts that it has a substantial and specific economic interest in the development and operation of renewable energy in South Carolina.

2. BrightNight is a developer of renewable energy projects throughout the United States and recently entered the market in South Carolina.

3. BrightNight believes that these South Carolina projects would be impacted by the decisions this Commission makes in this matter.

4. BrightNight asserts that the Commission's resolution of the subject matter of this Docket will affect opportunities to develop renewables and clean energy alternatives in South Carolina, which, according to BrightNight, impacts the demand and economics for the exact type of clean energy projects in which BrightNight specializes.

5. BrightNight asserts that its interests in this proceeding cannot be adequately represented or protected by any other party.

6. The Commission has already established a procedural schedule for this proceeding and the approved time for intervention has passed.

7. BrightNight has not participated in Dockets at this Commission, and has only recently entered the market in South Carolina.

IV. CONCLUSIONS OF LAW

1. BrightNight's intervention out of time will not prejudice any party, and it will accept the record of the proceeding as the record was developed prior to the late intervention.

2. BrightNight's intervention will not disrupt the proceeding, nor prejudice or impose additional burdens on any other parties in this docket.

3. BrightNight has shown good cause for granting of the late intervention request by the Commission.

4. BrightNight has clearly addressed facts from which the nature of its alleged right or interest can be determined and the grounds of the petition, as required by S.C. Code Ann. Regs. 103-825(A)(4).

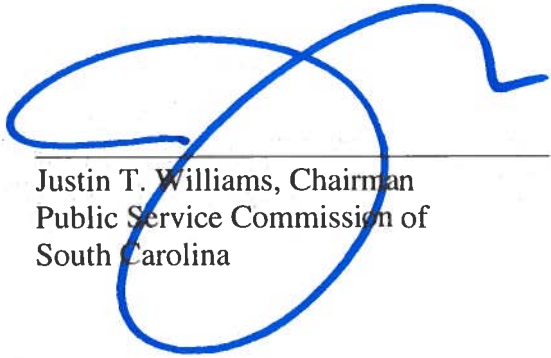
5. The requirement in the Regulation that BrightNight state its position in this Docket is waived at this time as not being contrary to the public interest, as stated in S.C. Code Ann. Regs. 103-803.

V. ORDER PARAGRAPHS

1. The Petition to Intervene Out of Time of BrightNight, LLC is granted.
2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:




Justin T. Williams, Chairman
Public Service Commission of
South Carolina